

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS, SAN ANGELO DIVISION

<p>CHRISTINE COOPER, an individual,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>CANIDAE CORPORATION, n/k/a Canidae, LLC, a Delaware Limited Liability Company,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">NOTICE OF REMOVAL</p> <p>Case No. _____</p> <p>Judge: _____</p>
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Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Canidae Corporation, n/k/a Canidae, LLC (“Canidae”) hereby gives notice of removal of the action titled *Christine Cooper v. Canidae Corporation*, Case No. CV200148-A from the 35th Judicial District Court, Brown County, Texas, where this action was commenced, to the United States District Court, Northern District of Texas, San Angelo Division, the district embracing the place where this case is pending. In support of this Notice of Removal, Canidae states the following:

TIMELINESS OF REMOVAL

1. On or around January 30, 2020, Plaintiff filed a complaint against Canidae and the Texas Workforce Commission in the 35th Judicial District Court, Brown County, Texas, in the matter styled *Christine Cooper v. Texas Workforce Commission and Canidae Corporation*, Case No. CV200148 (the “Initial Action”).

2. The Initial Action was a petition brought by Plaintiff appealing the Texas Workforce Commission’s denial of Plaintiff’s state wage claim.

3. Plaintiff served Canidae on February 6, 2020. Following service, Canidae and the Texas Workforce Commission jointly filed a plea to the jurisdiction, seeking dismissal of Plaintiff's claim.

4. On June 2, 2020, the district court set a hearing on the plea to the jurisdiction to be held on July 7, 2020.

5. On July 3, 2020, Plaintiff filed a First Amended Petition, adding a federal claim against Canidae under the Fair Labor Standards Act, 29 U.S.C. § 203(r).

6. On July 23, the district court issued a Letter Opinion, dismissing Plaintiff's state claim for lack of jurisdiction and ordered the federal claim to be severed. The district court assigned Case No. CV200148-A to the severed action (the "Severed Action"). Copies of all process and pleadings filed in state court are attached hereto as Exhibit A.

7. On August 3, 2020 the district court entered a final order, dismissing the state claim and severing the Severed Action.

8. Pursuant to 28 U.S.C. § 1446(b)(3), this Notice of Removal is timely because the Initial Action was not removable and this Notice was effected within thirty (30) days of Canidae receiving the First Amended Petition. *See* 28 U.S.C. § 1446(b)(3).

FEDERAL QUESTION JURISDICTION

9. "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. §§ 1331. As such, this Court may exercise jurisdiction over any civil action brought in state court that could have originally been filed in the United States District Court for the District of Texas.

10. The Severed Action is a claim brought under the laws of the United States, the Fair Labor Standards Act, 29 U.S.C. § 203(r).

11. FLSA claims are removable irrespective of the amount in controversy. *Brown v. Masonry Prod., Inc.*, 874 F.2d 1476, 1478 (11th Cir. 1989) (“We have jurisdiction over Brown's claim under the FLSA, even though the amount sought—\$99.40—is small”); *Flores v. Osaka Health Spa, Inc.*, No. 05 CIV. 0962 (VM), 2006 WL 1192738, at *1 (S.D.N.Y. May 3, 2006) (“[P]laintiffs' complaint asserts claims pursuant to the Fair Labor Standards Act . . . and thus invokes the Court's subject matter jurisdiction over the action as one arising under federal law by virtue of 28 U.S.C. § 1331, on that basis not requiring any amount in controversy as a jurisdictional prerequisite.”).

12. Under 28 U.S.C. § 1441(a), “[e]xcept as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

13. Accordingly, the Court has federal question jurisdiction over the Severed Action, and Canidae may properly remove this action to this Court regardless of whether the action was originally filed in state court.

COMPLIANCE WITH PROCEDURAL PREREQUISITES

14. This Court has original jurisdiction over the Severed Action under 28 U.S.C. § 1331 because Plaintiff's claim is brought under the laws of the United States, the Fair Labor Standards Act, 29 U.S.C. § 203(r). Accordingly, the Severed Action is removable under 28 U.S.C. § 1441(a).

15. Because the Severed Action is pending in the 35th Judicial District Court, Brown County, Texas, removal to this District Court is proper under 28 U.S.C. § 1441(a).

16. Pursuant to 28 U.S.C. § 1446(d), written notice of removal of this action together with a copy of this Notice of Removal, shall promptly be filed with the Clerk of the Court in the

35th Judicial District Court, Brown County, Texas and service of the same will be made upon Plaintiff's counsel.

17. In compliance with 28 U.S.C. § 1446(a), this Notice of Removal is signed by counsel pursuant to Fed. R. Civ. P. 11.

18. Because Canidae is the only defendant in the Severed Action, 28 U.S.C. § 1446(b)(2) does not apply.

19. In accordance with 28 U.S.C. § 84(c)(2), this Court embraces both the county and the court in which Plaintiffs filed this lawsuit. Therefore, this action is properly removed to this Court under 28 U.S.C. § 1446(a).

20. By removing this Action to this Court, Canidae does not waive defenses, objections, or motions available to it under state or federal law, including without limitation jurisdiction, venue, standing, or failure to state a claim upon which relief can be granted.

21. Canidae reserves the right to amend this Notice of Removal and file additional support for this Notice of Removal by way of affidavits, deposition testimony, expert testimony, discovery responses, supplemental memoranda, and legal argument.

WHEREFORE, Canidae respectfully requests that the Severed Action be removed from the 35th Judicial District Court, Brown County, Texas, to this Court and that this Court assume jurisdiction of the Severed Action and issue such further orders and processes as may be necessary to bring before it all parties necessary for trial.

DATED this 3rd day of August, 2020.

Respectfully submitted,

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By: /s/ Jon Mark Hogg

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ATTORNEY FOR DEFENDANT
CANIDAE CORPORATION, n/k/a
CANIDAE, LLC

CERTIFICATE OF SERVICE

I certify that on the 3rd day of August, 2020, a true and correct copy of the foregoing document was served with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being served on all counsel of record on the service list below via U.S. Mail on August 3, 2020.

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CHRISTINE COOPER

/s/ Jon Mark Hogg
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